

Arthur D. Bromberg, Esq. (2930)
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Attorneys for Defendant BMCE, Inc.
1050 Franklin Avenue
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FLOWSERVE CORPORATION,

Civil Action No. 05-CV-8075

Plaintiff,

-against-

BMCE, INC.,

NOTICE OF REMOVAL
28 U.S.C. § 1446(a),(b)

Defendant.
-----X

To: United States District Court for the Southern District of New York

1. BMCE, INC ("BMCE") is a defendant in an action brought in the Supreme Court of the State of New York, New York County, on August 15, 2005. Pursuant to 28 U.S.C. § 1441 and 1446, defendant BMCE hereby removes this action to the United States District Court of the Southern District of New York, which is the judicial district in which the action is pending.

2. The grounds for removal of this action are:

- (a) On August 15, 2005, plaintiff filed a summons and complaint in the Supreme Court of the State of New York, County of New York, Index Number. 05-602916.
- (b) There is complete diversity of citizenship between the plaintiff and defendant

in this action because:

- (i) Plaintiff Flowserve Corporation. is a corporation organized under the laws of the State of New York, with a principal place of business in Irving, Texas.
- (ii) Defendant BMCE, INC. is a corporation organized under the laws of the State of Wyoming, with a principal place of business in the State of California.
- (c) More than \$75,000, exclusive of interest and costs, is in controversy in this action.

3. This Court would have original subject matter jurisdiction of this action under the provisions of 28 U.S.C. § 1332 if the action had originally been brought in Federal Court. Therefore, removal is proper under 28 U.S.C. § 1441(a).

4. Removal of this case on the basis of diversity of citizenship is not precluded by the provisions of § 1441(b) of Title 28 of the United States Code, because none of the parties in interest properly joined and served as a defendant is a citizen of the State of New York, the state in which this action was brought.


5. This Notice of Removal is timely under § 1446(b) of Title 28 of the United States Code because plaintiffs' Complaint was not served until August 19, 2005. This Notice of Removal is timely under 28 U.S.C. § 1446(b) in that it is filed within 30 days of counsel's receipt of the summons and complaint, prior to the agreed date that defendants' answer is due, and within one year after the commencement of the action.

6. The state papers served on the defendants at the time of removal – the plaintiffs' Summons and Complaint – are attached hereto.

Dated: Garden City, New York
September 16, 2005

Respectfully submitted,

L'ABBATE, BALKAN, COLAVITA
& CONTINI, LLP


By: ARTHUR D. BROMBERG – Federal ID# 2930
Attorneys for Defendants
1050 Franklin Avenue
Garden City, New York 11530
(516) 294-8844

To: SEGAL MCCAMBRIDGE SINGER & MAHONEY
Attorneys for Plaintiff
Flowserve Corporation
830 Third Avenue, Suite 400
New York, NY 10022
(212)651-7500

AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY)
) ss.:
COUNTY OF ESSEX)

MARIANNE MARHOFFER, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Union, New Jersey.

That on the 16th day of September, 2005, deponent served the within **NOTICE OF REMOVAL** upon:

SEGAL, McCAMBRIDGE, SINGER & MAHONEY
Attorneys for Plaintiff
Flowserve Corporation
830 Third Avenue, Suite 400
New York, NY 10022
(212)651-7500

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a Federal Express envelope for overnight delivery.


MARIANNE MARHOFFER

Sworn to and subscribed before me this
16th day of September, 2005.


CHRISTOPHER B. BLOCK, ESQ.